

THURSDAY, APRIL 15, 1993

THIRTY-FOURTH LEGISLATIVE DAY

The House met at 9:00 a.m. and was called to order by Mr. Speaker Naifeh.

The proceedings were opened with prayer by Rev. Richard Sibert, Walnut Grove Missionary Baptist Church, Murfreesboro, Tennessee.

Representative Liles led the House in the Pledge of Allegiance to the Flag.

EXCUSED

The Speaker announced that the following member(s) has/have been excused, pursuant to request(s) under Rule No. 20:

Representative Jackson; illness.

ROLL CALL

The roll call was taken with the following results:

Present 97

Representatives present were: Allen, Anderson, Armstrong, Arriola, Bell, Bittle, Boyer, Bragg, Brooks, Brown, Buck, Byrd, Callicott, Chiles, Chumney, Clark, Coffey, Cole (Carter), Cole (Dyer), Collier, Crain, Cross, Davidson, Davis, DeBerry, Dixon, Duer, Ferguson, Fisher, Fowlkes, Garrett, Givens, Gunnels, Haley, Halteman, Harwell, Hargrove, Hassell, Haun, Head, Herron, Hillis, Huskey, Johnson, Jones R (Shelby), Jones U (Shelby), Joyce, Kent, Kisber, Knight, Lewis, Liles, Love, McAfee, McDaniel, McKee, Meyer, Miller, Mines, Moore, Napier, Odom, Owenby, Peroulas Draper, Phelan, Phillips, Pinion, Pruitt, Purcell, Ramsey, Rhinehart, Ridgeway, Rigsby, Rinks, Ritchie, Robinson, Severance, Shirley, Stamps, Stockburger, Stulce, Thompson, Tindell, Turner (Hamilton), Turner (Shelby), Venable, Walley, West, Westmoreland, Whitson, Williams (Shelby), Williams (Union), Williams (Williamson), Windle, Winningham, Wix, Wood, Mr. Speaker Naifeh -- 97.

PRESENT IN CHAMBER

Representative(s) Kernell was/were recorded as being present in the Chamber.

JOURNAL CORRECTION

On March 17, 1993, the Calendar and Rules Committee Report in

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the Journal should have reflected the following (page 636):

The following was/were transferred to the Finance, Ways and Means Committee: House Bill No. 820:

REPORT OF COMMITTEE ON CALENDAR AND RULES

April 15, 1993

The Calendar and Rules Committee has met and set the following bill(s) on the Regular Calendar for Monday, April 19, 1993: House Bill(s) No(s). 635, 1498, 1547, 1136, 1071, 1417, 581, 522, 978, 502 and 308; House Joint Resolution(s) No(s). 103 and 145; Senate Joint Resolution(s) 17; also, House Joint Resolution(s) No(s). 146.

The Committee set the following bill(s) and/or resolution(s) on the Consent Calendar for Monday, April 19, 1993: House Bill(s) No(s). 1371, 1433, 258 and 1542; Senate Joint Resolution No. 111 and 88; House Joint Resolution(s) No(s). 37, 56, 63, 144 and 82.

INTRODUCTION OF RESOLUTIONS

On motion, pursuant to Rule No. 17, the resolution(s) listed was/were introduced and referred to the appropriate Committee:

***House Joint Resolution No. 0208 -- General Assembly, Directed Studies --** Directs department of commerce and insurance to study feasibility of requiring insurance companies to offer optional coverage for fire department response fees as part of homeowner policies. by *Windle.

Commerce Committee.

***House Joint Resolution No. 0211 -- Memorials, Congress --** Urges the elimination of inequities in payment of social security benefits based on the year persons initially become eligible for such benefits. by *Dixon, *Armstrong.

Finance, Ways and Means Committee.

SENATE JOINT RESOLUTIONS
(Congratulatory and Memorializing)

Pursuant to Rule No. 17, the resolution(s) listed was/were noted as being placed on the Consent Calendar for Monday, April 19, 1993:

Senate Joint Resolution No. 0147 -- Memorials, Sports -- Stephen Harvey, state wrestling champion and Wrestler of the Year.

Senate Joint Resolution No. 0150 -- Memorials, Professional Achievement -- Carol W. King, 1993 Rotary Award for Teacher Excellence.

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Senate Joint Resolution No. 0152 -- Memorials, Professional Achievement -- Julia Bosley, Clarksville Montgomery County Distinguished Classroom Teacher Award.

Senate Joint Resolution No. 0153 -- Memorials, Death -- Bob Perry.

Senate Joint Resolution No. 0154 -- Memorials, Sports -- Battle Ground Academy boys' golf team.

Senate Joint Resolution No. 0156 -- Memorials, Sports -- Lexington High School girls' basketball team.

Senate Joint Resolution No. 0159 -- Memorials, Sports -- Bill Pike, Tennis champion.

Senate Joint Resolution No. 0160 -- Memorials, Sports -- Union University Lady Bulldogs.

Senate Joint Resolution No. 0161 -- Memorials, Death -- J. P. "Pat" Roddy, Jr.

Senate Joint Resolution No. 0162 -- Memorials, Sports -- Brandon Wood and Seth Pettus, Battle Ground Academy basketball stars.

Senate Joint Resolution No. 0163 -- Memorials, Sports -- Hickman County High School athletic awards.

RESOLUTIONS LYING OVER

On motion, the resolutions(s) listed was/were referred to the appropriate Committee:

Senate Joint Resolution No. 0158 -- Naming and Designating -- "Correctional Officers Week," May 2-8, 1993.

State and Local Government Committee.

INTRODUCTION OF BILLS

On motion, the following bills were introduced and passed first consideration:

House Bill No. 1645 -- Anderson County -- Sets forth responsibilities of Division I and Division II General Sessions judges. Amends Chapter 459, Private Acts of 1947, as amended. by *Cross, *Coffey.

House Bill No. 1646 -- School Districts, Special -- Reduces special school district jurisdiction from grades 1-9 to grades 1-8. Amends Chapter 563, Private Acts of 1949, as amended. by *Williams Mike, *Callicott.

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SENATE BILLS TRANSMITTED

On motion, the Senate Bills listed below, transmitted to the House, were held on the Clerk's desk pending third consideration of the companion House Bill as noted:

***Senate Bill No. 0165** -- Vocational Training and Rehabilitation -- Exempts director of vocational rehabilitation from state purchasing procedures for purchases of equipment, supplies or goods and services, not to exceed \$250. Amends TCA, Title 49, Ch. 11. (HB 0257).

***Senate Bill No. 0178** -- General Assembly -- Prohibits member of general assembly from serving as lobbyist. Amends TCA, Title 3, Ch. 6. (HB 0156).

Senate Bill No. 0206 -- Highways, Roads and Bridges -- Directs department of transportation to widen to four lanes SR 100 from city limits of Centerville to intersection with proposed I-840. (*HB 0124).

***Senate Bill No. 0342** -- Nurses, Nursing -- Authorizes testing of nursing assistants in facility in which assistant is or will be employed. Amends TCA, Title 68, Ch. 11, Pt. 2. (HB 1200).

Senate Bill No. 0670 -- Purchasing -- Creates state purchasing preference for agricultural products from Tennessee. (*HB 0417).

***Senate Bill No. 0870** -- Education, Dept. of -- Requires hearing officer to have post graduate degree or five years of professional experience in education. Amends TCA 49-10-601. (HB 1388).

***Senate Bill No. 0987** -- Taxes, Ad Valorem -- Exempts certain real and personal property from ad valorem taxation; establishes procedure for persons claiming exemption. Amends TCA, Title 67, Ch. 5. Repeals TCA 67-5-218. (HB 1468).

***Senate Bill No. 1112** -- Corporations -- Clarifies that actions under TCA 68-211-104 are unlawful. Amends TCA, Title 68, Ch. 211. (HB 0589).

HOUSE BILLS ON SECOND CONSIDERATION

On motion, bills listed below passed second consideration and were referred by the Speaker to Committee or held on the Clerk's desk as noted:

House Bill No. 1642 -- Germantown -- Held on Clerk's desk pending approval by local delegation.

House Bill No. 1643 -- Robertson County -- Held on Clerk's desk pending approval by local delegation.

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REPORTS OF SELECT COMMITTEES

The following documents were filed in the Clerk's Office with respect to House Resolution No. 22.

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

UNITED STATES OF AMERICA, Plaintiff,
VS. DAVID LANIER, Defendant

CR. NO. 92-20172-TU

EXPEDITED MOTION TO REQUEST PRESENCE OF JUDGE DAVID W. LANIER AT
HEARING BEFORE JOINT COMMITTEE OF THE GENERAL ASSEMBLY OF THE
STATE OF TENNESSEE AND MEMORANDUM IN SUPPORT

TO THE HONORABLE COURT:

Now into court comes the Special Joint Committee of the General Assembly of the State of Tennessee and would show the Court the following:

1. On December 15, 1992, in the United States District Court for the Western District of Tennessee, Western Division, David W. Lanier, the duly elected Chancellor for Dyer and Lake Counties, Tennessee, was convicted of seven violations of United States Code, Title 18, Section 242, involving the deprivation of rights and privileges secured and protected by the Constitution and the laws of the United States while acting under color of law. Five of the violations for which David W. Lanier was convicted are punishable as misdemeanors and two of the violations are punishable as felonies. Such convictions provide the cause for which the General Assembly of the State of Tennessee has commenced proceedings for the removal of David W. Lanier.

2. Judges may be removed from office by a concurrent two-thirds vote of both Houses of the General Assembly, each House voting separately. Tenn. Constitution, Article VI, Section 6. Even though the General Assembly may properly proceed with removal, it recognizes the necessity of affording Judge Lanier a full hearing prior to voting for against removal.

3. On April 7, 1993, the Joint Committee of the General Assembly appointed by the Speakers of the Senate and House for the purpose of facilitating a proper hearing for Judge Lanier, met and determined that Judge Lanier was to be properly notified of a joint committee hearing to address the issue of his removal from the bench, to be held in Nashville, Tennessee, on Monday, April 19, 1993, at 1:30 pm, Central Daylight Time.

4. On April 8, 1993, David W. Lanier was properly served at the

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Federal Correctional Institution, 1101 John A. Denie Road, Memphis, Tennessee 38134, with notice of the April 19, 1993 hearing and with copies of House and Senate resolutions. (Copy of the Notice and Resolutions are attached hereto as Exhibit 1). Judge Lanier's attorney of record in the federal court action, Wayne Emmons, Esq., was also properly served with notice and copies of resolutions. (Copies of the process server's returns are attached herewith as Exhibit 2).

5. The Joint Committee desires to afford Judge David W. Lanier the opportunity to attend the hearing before the Joint Committee of the General Assembly and to put forth his defense. Furthermore, Judge Lanier has expressed his intention to appear before such committee. The General Assembly is willing to underwrite the cost of Judge Lanier's transport to Nashville by the United States Marshal and shall underwrite any expenses associated with adequate security for Judge Lanier. Chief Deputy David Stanton of the Office of the United States Marshal, Memphis, Tennessee, has assured the General Assembly that Judge Lanier could be transported on April 19, 1993, to attend such hearing pursuant to the order of this court.

WHEREFORE, PREMISES CONSIDERED, the General Assembly of the State of Tennessee prays that the Court grant its motion to permit Judge David W. Lanier to attend the hearing regarding his removal from the bench and to present his case. Such hearing is scheduled to be held on April 19, 1993, at 1:30 pm, in Nashville, Tennessee.

Respectfully submitted,
/s/John Knox Wadup
Solicitor General
Office of the Attorney General
State of Tennessee
450 James Robertson Parkway
Nashville, TN 37243-0485
(615) 741-1376
Tennessee BPR 7776

CERTIFICATE OF SERVICE

The undersigned certifies that on this 12th day of April, 1993, true and correct copies of the foregoing motion and memorandum in support were served by mail upon the following persons:

David W. Lanier
Federal Correctional Institution
1101 John A. Denie Road
Memphis, Tennessee 38134

Judge Lloyd Tatum
P. O. Box 293
Henderson, Tennessee 38340

Wayne Emmons, Esq.
6064 Appletree Drive, Suite 4
Memphis, Tennessee 38115

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Clyde McCullough
Chief Clerk of the Senate
Tennessee General Assembly
2nd floor, State Capitol
Nashville, Tennessee 37243

Burney T. Durham
Chief Clerk of the House
Tennessee General Assembly
2nd floor, State Capitol
Nashville, Tennessee 37243

Representative Frank Buck
Chairman, Joint Committee
32 Legislative Plaza
Nashville, Tennessee 37243-0140

/s/John Knox Walkup
Solicitor General

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

UNITED STATES OF AMERICA, Plaintiff

VS.
DAVID W. LANIER, Defendant

CR. NO. 92-20172-TU

ORDER GRANTING EXPEDITED MOTION TO REQUEST PRESENCE OF JUDGE
DAVID W. LANIER AT HEARING BEFORE JOINT COMMITTEE OF THE GENERAL
ASSEMBLY OF THE STATE OF TENNESSEE

On this day the Court considered the motion of the Joint Committee of the General Assembly of the State of Tennessee, and is of the opinion that it should be granted.

IT IS THEREFORE ORDERED that Judge David W. Lanier shall be, and hereby is, permitted to appear before the removal hearing before Joint Committee of the General Assembly of the Senate of Tennessee on Monday, April 19, 1993, at 1:30 pm. Central Daylight Time. The General Assembly shall bear all expenses of his transport and necessary security measures and shall coordinate such transport and security arrangements with the Office of the United States Marshal, Memphis, Tennessee.

DATED: _____

/s/JEROME TURNER
UNITED STATES DISTRICT JUDGE

April 8, 1993
MEMORANDUM

TO: Judge David W. Lanier
FROM: Frank Buck, Chairman of Joint Committee
SUBJECT: Notice of April 19, 1993, Removal Hearing

Please consider this memorandum as notice that on April 19, 1993 at 1:30 p.m. (CDT) in Room 12-14 of the Legislative Plaza the joint committee appointed pursuant to Senate Resolution No. 15 and House of Representatives Resolution No. 22, certified copies of which are attached to this notice, will conduct a hearing for the purpose of recommending to the entire General Assembly whether you should be removed pursuant to Article VI, Section 6, of the Constitution of Tennessee from the office of Chancellor for the twenty-ninth judicial district because of your December 15, 1992, conviction for seven violations of United States Code, Title 18, Section 242.

The hearing will be conducted upon the record compiled by the Court of the Judiciary but there will be no presumption of correctness attached to such record. If you desire, you may appear at the hearing in person and you have the right to appear by counsel. Full argument of counsel will be permitted at the hearing.

Members of the Joint Committee are as follows: Senator James F. Kyle, Vice-Chairman, Senators Ward Crutchfield, Thelma Harper, Joe M. Haynes, Ben Atchley, and Curtis S. Person, Jr., Representative Bill Purcell, Lois DeBerry, Jere Hargrove, W. Townsend Anderson and Karen W. Williams.

Exhibit I

JOINT COMMITTEE OF THE 98TH GENERAL ASSEMBLY
IN THE MATTER OF DAVID W. LANIER

To the process server: David W. Lanier can be served at Federal Correctional Institution - Memphis, 1101 John A. Denie Road, Memphis, Tennessee 38134.

RETURN

I received this summons on the _____ day of April, 1993.
I hereby certify and return that on the _____ day of April, 1993,
I, _____, served this notice and certified copies
of resolutions on David W. Lanier in the following manner:

Process Server

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CERTIFICATE OF SERVICE

Judge Lloyd Tatum
P. O. Box 293
Henderson, Tennessee 38340

Charles Burson, Attorney General
450 James Robertson Parkway
Nashville, Tennessee 37219

Wayne Emmons, Esq.
6064 Appletree Drive, Suite 4
Memphis, Tennessee 38115

Clyde McCullough
Chief Clerk of the Senate
Tennessee General Assembly
2nd floor, State Capitol
Nashville, Tennessee 37243

Burney T. Durham
Chief Clerk of the House
Tennessee General Assembly
2nd floor, State Capitol
Nashville, Tennessee 37243

Representative Frank Buck
Chairman, Joint Committee
32 Legislative Plaza
Nashville, Tennessee 37243-0140

SENATE CHAMBER
STATE OF TENNESSEE
NASHVILLE

I, Clyde McCullough, Chief Clerk of the Senate for the Ninety-eighth General Assembly, certify that the attached document is a true and exact copy of Senate Resolution 15 that was adopted by the Senate on April 1, 1993.

/s/ Clyde McCullough
Chief Clerk

This the 1st day of April, 1993.

SENATE RESOLUTION NO. 15

By Cohen, Hamilton, Atchley, Crutchfield, Mr. Speaker Wilder

A RESOLUTION To authorize the Speaker of the Senate to appoint a committee to meet with a like committee from the House of Representatives to consider the removal of David W. Lanier from the Office of Chancellor of the Twenty-ninth Judicial District by the

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Tennessee General Assembly acting pursuant to Article VI, Section 6, of the Constitution of Tennessee.

WHEREAS, David W. Lanier is the duly elected Chancellor for the Twenty-ninth Judicial District; and

WHEREAS, On December 15, 1992, in the United States District Court for the Western District of Tennessee, Western Division, David W. Lanier was convicted of seven violations of United States Code, Title 18, Section 242, involving the deprivation of a person's rights and privileges secured and protected by the Constitution and the laws of the United States while acting under color of law; and

WHEREAS, Such convictions are the cause for which the General Assembly is commencing proceedings for the removal of David W. Lanier; and

WHEREAS, Five of the violations for which David W. Lanier was convicted are punishable as misdemeanors and two of the violations are punishable as felonies; and

WHEREAS, Article VI, Section 6 of the Constitution of Tennessee, provides that judges may be removed from office by a concurrent two-thirds vote of both Houses of the General Assembly, each House voting separately; and

WHEREAS, Because the presumption of innocence is no longer applicable following a conviction, the General Assembly may commence a removal proceeding even though an appeal of the convictions may be pending; and

WHEREAS, Even though the General Assembly may properly proceed with removal, it recognizes the necessity of providing Judge Lanier with a full due process hearing prior to voting for or against removal; and

WHEREAS, In order to facilitate such a hearing, the Speaker of the Senate shall appoint six (6) members of the Senate to meet jointly with a like number of Representatives to be appointed by the Speaker of the House of Representatives; and

WHEREAS, The joint hearing will be conducted upon the record compiled by the Court of the Judiciary with no presumption of correctness and the person who presented the charges against Judge Lanier at the Court of the Judiciary hearing will present the charges against him at the legislative hearing; and

WHEREAS, At the hearing, Judge Lanier shall have the right to be represented by counsel and full argument of counsel shall be permitted at the hearing; and

WHEREAS, At the conclusion of the hearing, the joint committee shall vote "for recommending removal" or "against recommending removal" as to each charge presented against the judge at the hearing, and the committee may vote "for recommending removal" based

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on the cumulative effect of all the charges even though they vote "against recommending removal" as to one or more of the individual charges; and

WHEREAS, Once the committee has voted and concluded its hearing, the committee and the General Assembly shall follow the procedure set out in Tennessee Code Annotated, Section 17-5-311, relative to the filing of a committee report and the manner in which the entire General Assembly convenes to consider and vote on the report; now, therefore,

BE IT RESOLVED BY THE SENATE OF THE NINETY-EIGHTH GENERAL ASSEMBLY OF THE STATE OF TENNESSEE, That the Speaker of the Senate shall appoint a committee of six members of the Senate to meet with a like number of Representatives to be appointed by the Speaker of the House of Representatives pursuant to House Resolution No. 22 to conduct a hearing for the purpose of recommending whether or not David W. Lanier should be removed from the Office of the Chancellor for the Twenty-ninth Judicial District because of his conviction on seven counts of violating United States Code, Title 18, Section 242.

BE IT FURTHER RESOLVED, That a signed and certified copy of this resolution be transmitted to David W. Lanier at least ten days before the committee appointed pursuant to this resolution and House Resolution No. 22 meet jointly to consider his removal from the Office of Chancellor for the Twenty-ninth Judicial District; and that this resolution and House Resolution No. 22 serve as notice to David W. Lanier of the General Assembly's intention to remove him from office and as a copy of the causes alleged for his removal, such causes being his conviction for seven violations of United States Code, Title 18, Section 242.

SENATE RESOLUTION NO. 15

ADOPTED: April 1, 1993

/s/JOHN S. WILDER,
SPEAKER OF THE SENATE

HOUSE OF REPRESENTATIVES
STATE OF TENNESSEE
OFFICE OF THE CHIEF CLERK

I, Burney Durham, Chief Clerk of the House of Representatives for the Ninety-eighth General Assembly, certify that the attached document is a true and exact copy of House Resolution 22 that was adopted by the House of Representatives on April 1, 1993.

/s/Burney Durham
Chief Clerk

This the 1st day of April, 1993

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HOUSE RESOLUTION NO. 22

A RESOLUTION to authorize the Speaker of the House of Representatives to appoint a committee to meet with a like committee from the Senate to consider the removal of David W. Lanier from the office of chancellor of the twenty-ninth judicial district by the Tennessee General Assembly acting pursuant to Article VI, Section 6, of the Constitution of Tennessee.

WHEREAS, David W. Lanier is the duly elected chancellor for the twenty-ninth judicial district; and

WHEREAS, On December 15, 1992, in the United States District Court for the Western District of Tennessee, Western Division, David W. Lanier was convicted of seven violations of United States Code, Title 18, Section 242 involving the deprivation of a person's rights and privileges secured and protected by the Constitution and the laws of the United States while acting under color of law; and

WHEREAS, such convictions are the cause for which the General Assembly is commencing proceedings for the removal of David W. Lanier; and

WHEREAS, Five of the violations for which David W. Lanier was convicted are punishable as misdemeanors and two of the violations are punishable as felonies; and

WHEREAS, Article VI, Section 6 of the Constitution of Tennessee provides that judges may be removed from office by a concurrent two-thirds vote of both Houses of the General Assembly, each House voting separately; and

WHEREAS, Because the presumption of innocence is no longer applicable following a conviction, the General Assembly may commence a removal proceeding even though an appeal of the convictions may be pending; and

WHEREAS, Even though the General Assembly may properly proceed with removal, it recognizes the necessity of providing Judge Lanier with a full due process hearing prior to voting for or against removal; and

WHEREAS, In order to facilitate such a hearing, the Speaker of the House of Representatives shall appoint six (6) members of the House of Representatives to meet jointly with a like number of Senators to be appointed by the Speaker of the Senate; and

WHEREAS, The joint hearing will be conducted upon the record compiled by the Court of the Judiciary with no presumption of correctness and the person who presented the charges against Judge Lanier at the Court of the Judiciary hearing will present the charges against him at the legislative hearing; and

WHEREAS, At the hearing Judge Lanier shall have the right to be represented by counsel and full argument of counsel shall be

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permitted at the hearing; and

WHEREAS, At the conclusion of the hearing, the joint committee shall vote "for recommending removal" or "against recommending removal" as to each charge presented against the judge at the hearing and the committee may vote "for recommending removal" based on the cumulative effect of all the charges even though they vote "against recommending removal" as to one or more of the individual charges; and

WHEREAS, Once the committee has voted and concluded its hearing, the committee and the General Assembly shall follow the procedure set out in Tennessee Code Annotated, Section 17-5-311, relative to the filing of a committee report and the manner in which the entire General Assembly convenes to consider and vote on the report; now, therefore,

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE NINETY-EIGHTH GENERAL ASSEMBLY OF THE STATE OF TENNESSEE, That the Speaker of the House of Representatives shall appoint a committee of six members of the House of Representatives to meet with a like number of Senators to be appointed by the Speaker of the Senate pursuant to Senate Resolution No. 15 to conduct a hearing for the purpose of recommending whether or not David W. Lanier should be removed from the office of chancellor for the twenty-ninth judicial district because of his conviction on seven counts of violating United States Code, Title 18, Section 242.

BE IT FURTHER RESOLVED, That a signed and certified copy of this resolution be transmitted to David W. Lanier at least ten days before the committee appointed pursuant to this resolution and Senate Resolution No. 15 meet jointly to consider his removal from the office of chancellor for the twenty-ninth judicial district; and that this resolution and Senate Resolution No 15 serve as notice to David W. Lanier of the general assembly's intention to remove him from office and as a copy of the causes alleged for his removal, such causes being his conviction for seven violations of United States Code, Title 18, Section 242.

HOUSE RESOLUTION NO. 22

ADOPTED: April 1, 1993

/s/JIMMY NAIFEH
SPEAKER, HOUSE OF REPRESENTATIVES

EXHIBIT II

JOINT COMMITTEE OF THE 98TH GENERAL ASSEMBLY IN THE MATTER OF DAVID W. LANIER

To the process server: David W. Lanier can be served through his attorney of record, Wayne Emmons, Esq., at 6064 Appletree Drive, Suite 4, Memphis, Tennessee 38115.

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RETURN

I received this summons on the 08 day of April, 1993. I hereby certify and return that on the 08 day of April, 1993, I, Sgt. Roger B. Farmer, served this notice and copies of resolutions on David W. Lanier through his attorney of record, Wayne Emmons, Esq., in the following manner: I personally delivered the notice and resolutions in Mr. Emmons hands at 3:36 pm on Thursday, April 08, 1993, in his office, Suite 4, 6064 Appletree Drive, Memphis, TN.

/s/Sgt. Roger B. Farmer,
Tennessee Highway Patrol
Process Server

JOINT COMMITTEE OF THE 98TH GENERAL ASSEMBLY
IN THE MATTER OF DAVID W. LANIER

To the process server: David W. Lanier can be served at Federal Correctional Institution - Memphis, 1101 John A. Denie Road, Memphis, Tennessee 38134.

RETURN

I received this summons on the 08 day of April, 1993. I hereby certify and return that on the 08 day of April, 1993, I, Sgt. Roger B. Farmer, served this notice and certified copies of resolutions on David W. Lanier in the following manner: I personally delivered the notice and resolutions in his hand at 2:53 pm on Thursday, April 08, 1993, in the presence of Mr. Roland M. Booher, Inmate systems manager, Mr. Thomas L. Read, Attorney Advisor and Mr. Erbie Lyons, Unit Manager, at the Federal Correctional Institution, 1101 John A. Denie Road, Memphis, TN, 38134.

/s/Sgt. Roger B Farmer,
Tennessee Highway Patrol
Process Server

CONSENT CALENDAR

House Resolution No. 0037 -- Memorials, Public Service -- Physicians of Nashville Nephrology Association.

House Resolution No. 0038 -- Memorials, Public Service -- Reverend Leonard L. Barnes and Lucille M. Barnes, Shelby County.

House Joint Resolution No. 0202 -- Memorials, Heroism -- Randy Button, Roane County Property Tax Assessor.

House Joint Resolution No. 0203 -- Memorials, Professional Achievement -- Honorarium for Women and Industry.

House Joint Resolution No. 0204 -- Memorials, Interns -- Kevin Sheilley.

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House Joint Resolution No. 0207 -- Memorials, Sports -- 1992-1993 South Greene High Street girls' basketball team.

House Joint Resolution No. 0209 -- Memorials, Sports -- Anfernee Hardaway, Memphis State University basketball star.

Pursuant to Rule No. 50, Rep. Phillips moved that all House Bills having companion Senate Bills and are on the Clerk's desk be conformed and substituted for the appropriate House Bill, all Senate and House Bills on the Consent Calendar be passed on third and final consideration, all House Resolutions and House Joint Resolutions be adopted, and all Senate Joint Resolutions on the Consent Calendar be concurred in, which motion prevailed by the following vote:

Ayes	97
Noes	0

Representatives voting aye were: Allen, Anderson, Armstrong, Arriola, Bell, Bittle, Boyer, Bragg, Brooks, Brown, Buck, Byrd, Callicott, Chiles, Chumney, Clark, Coffey, Cole (Carter), Cole (Dyer), Collier, Crain, Cross, Davidson, Davis, DeBerry, Dixon, Duer, Ferguson, Fisher, Fowlkes, Garrett, Givens, Gunnels, Haley, Halteman Harwell, Hargrove, Hassell, Haun, Head, Herron, Hillis, Huskey, Johnson, Jones R (Shelby), Joyce, Kent, Kernell, Kisber, Knight, Lewis, Liles, Love, McAfee, McDaniel, McKee, Meyer, Miller, Mires, Moore, Napier, Odom, Owenby, Peroulas Draper, Phelan, Phillips, Pinton, Pruitt, Purcell, Ramsey, Rhinehart, Ridgeway, Rigsby, Rinks, Ritchie, Robinson, Severance, Shirley, Stamps, Stockburger, Stulce, Thompson, Tindell, Turner (Hamilton), Turner (Shelby), Venable, Walley, West, Westmoreland, Whitson, Williams (Shelby), Williams (Union), Williams (Williamson), Windle, Winningham, Wix, Wood, Mr. Speaker Naifeh -- 97.

A motion to reconsider was tabled.

REGULAR CALENDAR

House Bill No. 0897 -- Veterans -- Authorizes motor vehicle registration fee exemption for holders of purple heart. Amends TCA 55-4-239.

Further consideration of House Bill No. 897, previously considered on April 1, 1993, at which time it was reset to the Calendar for April 15, 1993.

Rep. Winningham moved that House Bill No. 897 be reset one week to the Calendar for Thursday, April 22, 1993, which motion prevailed.

House Bill No. 0671 -- Youth Development, Dept. of -- Terminates at age 19 commitment of persons to department. Amends TCA 37-1-102, 131, 137.

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On motion, House Bill No. 671 was made to conform with **Senate Bill No. 1240**; the Senate Bill was substituted for the House Bill.

Rep. Purcell moved that **Senate Bill No. 1240** be passed on third and final consideration.

Rep. Love moved adoption of State and Local Government Committee Amendment No. 1, seconded by Rep. Purcell, as follows:

Amendment No. 1

Amend Senate Bill No. 1240 by re-numbering Section 4 as Section 5, and by adding the following language as a new Section 4:

SECTION 4. The provisions of this act shall not affect or apply to any juvenile committed to the Department of Youth Development on or before the effective date of this act.

On motion, Amendment No. 1 was adopted.

Rep. Purcell moved that **Senate Bill No. 1240**, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes.	97
Noes.	0

Representatives voting aye were: Allen, Anderson, Armstrong, Arriola, Bell, Bittle, Boyer, Bragg, Brooks, Brown, Buck, Byrd, Callicott, Chiles, Chumney, Clark, Coffey, Cole (Carter), Cole (Dyer), Collier, Crain, Cross, Davidson, Davis, DeBerry, Dixon, Duer, Ferguson, Fisher, Fowlkes, Garrett, Givens, Gunnels, Haley, Halteman Harwell, Hargrove, Hassell, Haun, Head, Herron, Hillis, Huskey, Johnson, Jones R (Shelby), Jones U (Shelby), Joyce, Kent, Kernell, Kisber, Knight, Lewis, Liles, Love, McAfee, McDaniel, McKee, Meyer, Miller, Mires, Moore, Napier, Odom, Owenby, Peroulas Draper, Phelan, Phillips, Pinion, Pruitt, Purcell, Ramsey, Rhinehart, Ridgeway, Rigsby, Rinks, Ritchie, Robinson, Severance, Shirley, Stamps, Stockburger, Stulce, Thompson, Tindell, Turner (Hamilton), Turner (Shelby), Venable, Walley, West, Westmoreland, Whitson, Williams (Shelby), Williams (Union), Williams (Williamson), Windle, Winningham, Wood, Mr. Speaker Naifeh -- 97.

A motion to reconsider was tabled.

House Bill No. 0678 -- Public Funds and Financing -- Creates State Office Buildings and Support Facilities Revolving Fund. Amends TCA, Title 9, Ch. 4.

Rep. Purcell moved that House Bill No. 678 be reset two weeks to the Calendar for Thursday, April 29, 1993, which motion prevailed.

*House Bill No. 0354 -- Pensions and Retirement Benefits -- Eliminates provision that hospitals may elect to discontinue assumption of employee contributions to TCRS of certain employees in certain counties. Amends TCA, Title 8, Chs. 34--37.

Rep. Rhinehart moved that House Bill No. 354 be passed on third and final consideration.

Rep. Rhinehart moved to adopt Council on Pensions and Insurance Committee Amendment No. 1 as follows:

Amendment No. 1

AMEND House Bill No. 354 by deleting the amendatory and directory language of Sections 1 through 3 in their entirety and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 8-37-304(b), is amended by adding the following new sentence at the end thereof:

Notwithstanding any other law to the contrary, the board of trustees may establish an amortization period of less than forty (40) years or the board may establish separate amortization periods of less than forty (40) years for each state employee group, for each employer participating in the retirement system pursuant to chapter 35, part 2 of this title, and for teachers.

SECTION 2. Title 8, Chapter 36, Part 1, is amended by adding a new section as follows:

8-36-____(a) If the board of trustees determines, after reviewing the actuarial valuation as of June 30, 1993, that the recommended employer contribution rate for state employees and teachers is less than the rate in effect on June 30, 1993, any excess appropriation contained in the general appropriations act resulting from the reduction in annual contribution requirements for the fiscal year ending June 30, 1994 shall be utilized by the board of trustees as follows:

(1) Any excess appropriations shall first be used to reduce the amortization period of the unfunded accrued liability existing on June 30, 1993 by at least six (6) years, as authorized in § 8-37-304(b);

(2) If any appropriations remain after decreasing the amortization period, such appropriations shall be used to calculate the average final compensation of any active or retired member of the retirement system or any superseded system who has service in more than

one (1) membership classification and whose benefits are determined pursuant to § 8-36-110 as if all the member's service was rendered in the same membership classification, except for those members covered under §§ 8-35-226 and 8-35-234;

(3) If any appropriations remain after implementing the above average final compensation change, such funds shall be used to increase the base benefit of Group I members, other than members of the General Assembly; Group II members; members of the superseded state retirement system; members of the superseded state teachers' retirement system; state employees covered under § 8-39-101; and teachers covered under § 8-39-102 subject to the following terms and conditions:

(A) The amount of any base benefit improvement authorized in this section shall be set by the board, but shall not exceed five percent (5%);

(B) The board shall consider any comments of the council on pensions and insurance prior to adopting a base benefit improvement increase;

(C) Any base benefit improvement increase authorized in this section shall be effective January 1, 1994 and shall apply to both active and retired members in the groups and systems referenced herein;

(D) Any base benefit improvement increase authorized pursuant to this section shall not apply to employees of employers participating in the retirement system pursuant to chapter 35, part 2 of this title, unless the governing body of any such employer, after receipt of the liability information from the retirement system, passes a resolution authorizing the increase and accepting the liability thereof;

(E) The provisions of § 8-36-208(a) shall not be construed to prevent any increase in the retirement allowance of a member when such increase is in accordance with this section, nor shall the provisions of § 8-36-102 be construed to prevent any increase in the retirement allowance of a member retiring prior to January 1, 1994, when such increase is in accordance with this section; and

(4) If any further appropriations remain after implementing the base benefit increase, such funds shall be used to further reduce the amortization period of the unfunded accrued liability existing on June 30, 1993.

(b) The board of trustees shall not adopt changes pursuant to this section which cause the actuarial funding requirement for state employees and teachers to exceed the actuarially determined employer contribution rate established pursuant to the June 30, 1991, biennial evaluation.

SECTION 3. Tennessee Code Annotated, Section 8-34-116, is amended by adding the following language as new appropriately designated subsections:

() Notwithstanding any other law to the contrary, earnable compensation shall not include compensation paid to a teacher employed in a state-supported institution of higher education for performing extra services for the institution that exceeds twenty-five percent (25%) of the teacher's base compensation. For purposes of this subsection, the term extra services means any duties other than summer school, or regular duties.

() In all cases of doubt, the retirement system shall determine whether a certain payment is includable as earnable compensation.

SECTION 4. Tennessee Code Annotated, Title 8, Chapter 35, Part 4 is amended by deleting the word "teacher" wherever it appears and by substituting instead the words "eligible employee", and by deleting the word "teachers" wherever it appears and by substituting instead the words "eligible employees".

SECTION 5. Tennessee Code Annotated, Section 8-35-403(a), is amended by deleting it in its entirety and by substituting instead the following:

Notwithstanding any other provisions to the contrary, any individual who is exempt from the Fair Labor Standards Act and who is employed in a state-supported institution of higher education hereafter establishing an optional retirement program hereunder, may elect either membership in the retirement system or participation in the optional retirement program under the conditions provided herein. In all cases of doubt, the retirement system shall determine whether the employee is eligible to participate in the optional retirement program.

SECTION 6. If any provision of this act or the

application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 7. This act shall take effect July 1, 1993, the public welfare requiring it.

On motion, Amendment No. 1 was adopted.

Rep. Rhinehart moved that House Bill No. 354, as amended, be passed on third and final consideration.

Rep. Bell moved the previous question, which motion prevailed.

Rep. Rhinehart moved that House Bill No. 354, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes	92
Noes	1
Present and not voting	4

Representatives voting aye were: Allen, Anderson, Armstrong, Arriola, Bell, Bittle, Boyer, Bragg, Brooks, Buck, Byrd, Callicott, Chiles, Chumney, Clark, Coffey, Cofe (Carter), Cole (Dyer), Collier, Crain, Cross, Davidson, Davis, DeBerry, Dixon, Duer, Ferguson, Fisher, Fowlkes, Garrett, Givens, Gunnels, Halteman, Harwell, Hargrove, Hassell, Haun, Head, Herron, Hillis, Huskey, Johnson, Jones R (Shelby), Jones U (Shelby), Joyce, Kent, Kernell, Kisber, Knight, Lewis, Love, McAfee, McDaniel, McKee, Meyer, Miller, Mires, Moore, Napier, Odom, Owenby, Peroutas, Draper, Phelan, Phillips, Pinion, Pruitt, Ramsey, Rhinehart, Ridgeway, Rigsby, Rinks, Ritchie, Robinson, Severance, Shirley, Stamps, Stockburger, Stulce, Thompson, Tindell, Turner (Hamilton), Turner (Shelby), Venable, Walley, West, Whitson, Williams (Shelby), Williams (Union), Williams (Williamson), Windle, Winningham, Wood, Mr. Speaker Naifeh -- 92.

Representatives voting no were: Haley -- 1.

Representatives present and not voting were: Brown, Liles, Purcell, Westmoreland -- 4.

A motion to reconsider was tabled.

House Bill No. 1584 -- Charitable Solicitations -- Revises solicitation of charitable funds. Amends TCA, Title 48, Ch. 3, Pt. 5.

On motion, House Bill No. 1584 was made to conform with Senate Bill No. 1423; the Senate Bill was substituted for the House Bill.

Rep. Kisber moved that Senate Bill No. 1423 be passed on third and final consideration.

On motion, Rep. Rhinehart withdrew Commerce Committee Amendment No. 1.

On motion, Rep. Rhinehart withdrew Commerce Committee Amendment No. 2.

Rep. Kisber moved that Senate Bill No. 1423, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes.	88
Noes.	8

Representatives voting aye were: Allen, Anderson, Arriola, Bell, Bittle, Boyer, Bragg, Brooks, Brown, Buck, Byrd, Callicott, Chiles, Chumney, Clark, Coffey, Cole (Carter), Cole (Dyer), Collier, Crain, Cross, Davidson, Davis, DeBerry, Dixon, Duer, Ferguson, Fisher, Fowlkes, Garrett, Gunnels, Haley, Halteman, Harwell, Hargrove, Hassell, Haun, Head, Herron, Hillis, Huskey, Johnson, Jones R (Shelby), Jones U (Shelby), Joyce, Kent, Kernell, Kisber, Knight, Liles, Love, McAfee, McDaniel, McKee, Meyer, Miller, Mires, Moore, Napier, Odom, Owenby, Peroulas, Draper, Phillips, Pinion, Pruitt, Purcell, Ramsey, Rhinehart, Ridgeway, Ritchie, Robinson, Severance, Shirley, Stamps, Stockburger, Stulce, Thompson, Tindell, Turner (Hamilton), Venable, West, Westmoreland, Whitson, Williams (Shelby), Williams (Williamson), Windle, Winningham, Wood, Mr. Speaker Naifeh -- 88.

Representatives voting no were: Armstrong, Givens, Lewis, Phelan, Rigsby, Rinks, Walley, Williams (Union) -- 8.

A motion to reconsider was tabled.

House Bill No. 1362 -- Telecommunications -- Revises Emergency Communications District Law. Amends TCA, Title 7, Ch. 86, Pt. 1.

Rep. Kisber moved that House Bill No. 1362 be passed on third and final consideration.

Rep. Love moved adoption of State and Local Government Committee Amendment No. 1, seconded by Rep. Kisber, as follows:

Amendment No. 1

Amend House Bill No. 1362 by deleting all the language following the enacting clause and by substituting instead the following:

Section 1. Tennessee Code Annotated, Section 7-86-102, is amended by adding the following as new paragraphs:

It is the intent that all funds received by the district are public funds and are limited to purposes for the furtherance of this part. The funds received by the districts are to be used to obtain emergency services for law enforcement and other public service efforts requiring emergency notification of public service personnel and the funds received from all sources shall be used exclusively in the operation of the emergency communications district.

Services involving addressing, numbering and mapping the emergency communications district and the creation of a data base for the district are deemed to be services necessary for the operation of the emergency communications district. If the appropriate county or municipality fails to acquire and install highway, road and street signs, then the board of directors of the emergency communications district may expend district funds for the acquisition and installation of signs identifying highways, roads and streets that the board deems essential for emergency units to provide emergency assistance.

Section 2. Tennessee Code Annotated, Section 7-86-103, is amended by adding the following as a new subdivision to be appropriately designated:

() "Appropriate county or municipality" means the legislative body of the county or municipality which by resolution or ordinance, respectively, created the emergency communications district.

Section 3. Tennessee Code Annotated, Section 7-86-108, is amended by adding the following as a new subsection (b) and redesignating the present subsections (b) and (c) accordingly:

(b) Before any initial levy or increase to an existing levy which is approved by the board of directors as provided in subsection (a) becomes effective, the district shall provide a thirty (30) day notice prior to the next scheduled meeting of the legislative body that created the district and request a hearing before the legislative body of the appropriate county or municipality regarding such levy. The district shall present to the legislative body the amount of the levy and the justification for such levy including a plan for the use of the funds. The legislative body may make recommendations to the district regarding such levy for consideration by the district before the levy is imposed upon the user. The provisions of this subsection shall not apply when the initial levy or any increase to an existing levy has been approved by a public referendum.

Section 4. Tennessee Code Annotated, Section 7-86-113, is amended by deleting the second sentence from subsection (a) and substituting instead the following;

Within thirty (30) days after receipt by the district, a copy of the annual audit shall be filed with the clerk or recorder of the appropriate county or municipality who shall then distribute copies to members of the appropriate legislative body. Within thirty (30) days after receipt by the district, a copy of the annual audit shall also be filed with the chief administrative officer of the appropriate county or municipality.

Section 5. Tennessee Code Annotated, Section 7-86-119, is amended by adding the following to the end of subsection (c):

Effective July 1, 1994, the minimum amount of such required bond shall be determined from the amount of revenues handled by the respective emergency communications district during the last audit approved by the comptroller of the treasury. The minimum amount of the bond shall be based on revenues as follows:

(1) Less than fifty thousand dollars (\$50,000) - a base bond of five thousand dollars (\$5,000).

(2) From fifty thousand dollars (\$50,000) to five hundred thousand dollars (\$500,000) - an amount equal to ten percent (10%) of the revenues handled by the district.

(3) Five percent (5%) of the excess of five hundred thousand dollars (\$500,000) to one million dollars (\$1,000,000) shall be added.

(4) Three percent (3%) of the excess of one million dollars (\$1,000,000) to three million dollars (\$3,000,000) shall be added.

(5) Two percent (2%) of the excess of three million dollars (\$3,000,000) shall be added.

(6) The amounts indicated in subdivisions (2) through (5) shall be cumulative.

Section 6. Tennessee Code Annotated, Section 7-86-120, is amended by adding to subsection (a) the following as a new subdivision:

() A schedule of salaries by position and the number of people employed by the district.

Section 7. Tennessee Code Annotated, Section 7-86-120, is amended by deleting subsection (b) in its entirety and substituting instead the following:

(b) prior to adoption by the district, a copy of the proposed budget shall be filed with the clerk or recorder of the appropriate county or municipality who shall then distribute copies to members of the appropriate legislative body at least thirty (30) days before the next scheduled meeting of the legislative body. A copy of the proposed budget shall also be filed with the chief administrative officer of the appropriate county or municipality at the same time the budget is filed with the clerk or recorder. Nothing herein shall prohibit a district from adopting the proposed budget or delay the orderly adoption of the annual budget by the district's board of directors.

Tennessee Code Annotated, Section 7-86-120, is further amended by adding the following as a new, appropriately designated subsection:

() Within thirty (30) days after its adoption by the district board the budget, and any amendments thereto, shall be filed with the clerk or recorder of the appropriate county or municipality, who shall then distribute copies to members of the appropriate legislative body. Within thirty (30) days after its adoption by the district board the budget, and any amendments thereto, shall be filed with the chief administrative officer of the appropriate county or municipality. Nothing herein shall prohibit or limit the authority of the board of directors from amending a budget after adoption.

Section 8. Tennessee Code Annotated, Title 7, Chapter 86, Part 1, is amended by adding the following as a new section:

Section ____.

(a) The board of directors of each district shall adopt comprehensive travel regulations applicable to all officers and employees of the district. The minimum regulations shall be the same as those of the appropriate county or municipality which created the district. Nothing herein shall prohibit a district from adopting a more stringent policy. Provided, however, the district may establish a mileage allowance for travel up to, but not in excess of, the business standard mileage rate established by the Internal Revenue Code.

(b) If the appropriate county or

municipality does not have comprehensive travel regulations as described in subsection (a) the board shall adopt travel regulations. Such regulations shall determine how expenses will be reimbursed and what expenses are reimbursable. A copy of such travel regulations shall be open for public inspection and kept on file in the district office.

Section 9. Tennessee Code Annotated, Title 7, Chapter 86, Part 1, is amended by adding the following as a new section:

Section _____. Each emergency communications district shall require any bank or savings and loan association that becomes a state depository of district funds to secure such funds in such manner as set forth in Tennessee Code Annotated, Sections 5-8 201 or 9-1-107.

Section 10.

(a) An advisory board is hereby created to prepare proposed legislation regarding standards for certification and training of persons engaged in or employed as telecommunications operators by an emergency communication district pursuant to Title 7, Chapter 86, and the funding to implement such certification and training. The advisory board shall submit the proposed legislation regarding standards for certification, training, and the funding to implement such training, to the 1994 session of the Ninety-eighth General Assembly by January 15, 1994. Upon reporting such findings and recommendations, the advisory board shall cease to exist.

(b) The advisory board shall consist of eleven (11) members. The speakers of the respective houses shall each appoint one (1) member from each house. The speaker of the senate shall also appoint one (1) additional member to the advisory board from each of the following organizations:

(1) Tennessee Emergency Management Agency;

(2) Tennessee Emergency Numbers Association;

(3) Tennessee Emergency Medical Service Board; and

(4) Tennessee Municipal League.

The speaker of the house shall also appoint one (1) additional member to the advisory board from each of the following organizations:

- (1) Fire Chiefs Association;
- (2) Sheriffs Association;
- (3) Chiefs of Police Association;
- (4) Associated Public Safety Communication Officers, Inc; and
- (5) Tennessee County Services Association.

(c) The members of the advisory board shall serve without compensation, but each legislative member may receive the expense and travel allowance provided in Section 3-1-106.

(d) The advisory board shall meet in an organizational meeting by July 15, 1993, and shall thereafter conduct meetings as often as the advisory board deems necessary. The organizational meeting of the board shall be convened by the member of the general assembly with the longest period of continuous service in the general assembly. The board shall select from its membership a chair, vice-chair, and such other officers as the advisory board deems necessary.

(e) The department of health shall provide staff to the advisory board upon request of the chair.

Section 11. This act shall take effect July 1, 1993, the public welfare requiring it.

On motion, Amendment No. 1 was adopted.

Rep. Kisber moved that House Bill No. 1362, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes.	98
Noes.	0

Representatives voting aye were: Allen, Anderson, Armstrong, Arriola, Bell, Bittle, Boyer, Bragg, Brooks, Brown, Buck, Byrd, Callicott, Chiles, Chumney, Clark, Coffey, Cole (Carter), Cole (Dyer), Collier, Crain, Cross, Davidson, Davis, DeBerry, Dixon, Duer, Ferguson, Fisher, Fowlkes, Garrett, Givens, Gunnels, Haley, Halteman Harwell, Hargrove, Hassell, Haun, Head, Herron, Hillis, Huskey, Johnson, Jones R (Shelby), Jones U (Shelby), Joyce, Kent, Kernell, Kisber, Knight, Lewis, Liles, Love, McAfee, McDaniel, McKee, Meyer, Miller, Mires, Moore, Napier, Odom, Owenby, Peroulas Draper, Phelan, Phillips, Pinion, Pruitt, Purcell, Ramsey, Rhinehart, Ridgeway, Rigsby, Rinks, Ritchie, Robinson, Severance, Shirley, Stamps, Stockburger, Stulce, Thompson, Tindell, Turner

THURSDAY, APRIL 15, 1993 -- THIRTY-FOURTH LEGISLATIVE DAY

(Hamilton), Turner (Shelby), Venable, Walley, West, Westmoreland, Whitson, Williams (Shelby), Williams (Union), Williams (Williamson), Windle, Winningham, Wix, Wood, Mr. Speaker Naifeh -- 98.

A motion to reconsider was tabled.

House Bill No. 0453 -- Municipal Government -- Permits municipalities other than home rule municipalities to impose a penalty not to exceed \$500 for violations of municipal ordinances. Amends TCA, Title 6, Ch. 54, Pt. 3.

Rep. Garrett moved that House Bill No. 453 be passed on third and final consideration.

Rep. Buck moved adoption of Judiciary Committee Amendment No. 1 as follows:

Amendment No. 1

Amend House Bill No. 453 by adding the following to the end of the Section ___ of the amendatory language of SECTION 1:

The authority for increased monetary penalties for ordinance violations provided by this section shall not apply to ordinances regulating all moving traffic violations.

On motion, Amendment No. 1 was adopted.

Rep. Garrett moved that **House Bill No. 453**, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes.	95
Noes.	2

Representatives voting aye were: Allen, Anderson, Armstrong, Bell, Bittle, Boyer, Bragg, Brooks, Brown, Buck, Byrd, Callicott, Chiles, Chumney, Clark, Coffey, Cole (Carter), Cole (Dyer), Collier, Crain, Cross, Davidson, Davis, DeBerry, Dixon, Ferguson, Fisher, Fowlkes, Garrett, Givens, Gunnels, Haley, Halteman, Harwell, Hargrove, Hassell, Haun, Head, Herron, Hillis, Huskey, Johnson, Jones R (Shelby), Jones U (Shelby), Joyce, Kent, Kernell, Kisber, Knight, Lewis, Liles, Love, McAfee, McDaniel, McKee, Meyer, Miller, Mires, Moore, Napier, Odom, Owenby, Peroulas, Draper, Phelan, Phillips, Pinion, Pruitt, Purcell, Ramsey, Rhinehart, Ridgeway, Rigsby, Rinks, Ritchie, Robinson, Severance, Stamps, Stockburger, Stulce, Thompson, Tindell, Turner (Hamilton), Turner (Shelby), Venable, Walley, West, Westmoreland, Whitson, Williams (Shelby), Williams (Union), Williams (Williamson), Windle, Winningham, Wix, Wood, Mr. Speaker Naifeh -- 95.

Representatives voting no were: Arriola, Duer -- 2.

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A motion to reconsider was tabled.

House Bill No. 0056 -- Water Pollution and Water Resources -- Authorizes municipalities of more than 100,000 to regulate storm water management.

On motion, House Bill No. 56 was made to conform with Senate Bill No. 68; the Senate Bill was substituted for the House Bill.

Rep. Odom moved that Senate Bill No. 68 be passed on third and final consideration.

On motion, Rep. Hillis withdrew Conservation and Environment Committee Amendment No. 1.

Rep. Hillis moved adoption of Conservation and Environment Committee Amendment No. 2 as follows:

Amendment No. 2

AMEND Senate Bill No. 68 by deleting the words "or without" in the first sentence of the original Section 3.

AND FURTHER AMEND by deleting the last sentence of the original Section 3 in its entirety.

AND FURTHER AMEND by deleting the words "or without" in the first sentence of the original Section 4.

AND FURTHER AMEND by deleting the last sentence of the original Section 4 in its entirety.

On motion, Amendment No. 2 was adopted.

Rep. Odom requested that Senate Bill No. 68 be moved down five spaces on the Calendar.

House Bill No. 1268 -- Medicine, Practice of -- Deletes "prehospital" from definition of "emergency medical care" in Emergency Medical Services Act of 1983; makes definition of "medical direction" by physician of emergency medical services subject to direction of hospital. Amends TCA, Title 68, Ch. 140, Pt. 5.

Rep. Ferguson moved that House Bill No. 1268 be reset one week to the Calendar for Thursday, April 22, 1993, which motion prevailed.

House Bill No. 1218 -- Real Estate Agents and Brokers -- Requires all applicants for real estate broker's license to provide proof of high school education or GED; requires 30 hours of continuing education one year after receiving license. Amends TCA, Title 62, Ch. 13.

THURSDAY, APRIL 15, 1993 -- THIRTY-FOURTH LEGISLATIVE DAY

Rep. Cole (Carter) moved that House Bill No. 1218 be passed on third and final consideration.

Rep. Rhinehart moved adoption of Commerce Committee Amendment No. 1 as follows:

Amendment No. 1

Amend House Bill No. 1218 by deleting the language of Sections 1 and 2 in their entirety and by substituting instead the following:

Section 1. Tennessee Code Annotated, Section 62-13-207, is amended by deleting the first sentence thereof in its entirety and by substituting instead the following:

The commission shall have an executive director, who shall have passed the broker's examination for the state of Tennessee. The commission shall set all other qualifications necessary for the position of executive director. The executive director shall be appointed by the commission, with the approval of the commissioner of personnel. The term of the executive director shall be four (4) years, and he or she shall be eligible for reappointment. The commission shall also retain an administrator and such other staff members as the commission may deem necessary and proper. The commission shall fix the compensation to be paid to the executive director, the administrator and staff of the commission subject to applicable rules, regulations and law.

On motion, Amendment No. 1 was adopted.

Rep. Cole (Carter) moved that House Bill No. 1218, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes.	91
Noes.	3
Present and not voting.	1

Representatives voting aye were: Allen, Anderson, Armstrong, Arriola, Bell, Bittle, Boyer, Bragg, Brooks, Brown, Buck, Byrd, Callicott, Chiles, Chumney, Clark, Coffey, Cole (Carter), Cole (Dyer), Collier, Crain, Cross, Davidson, Davis, DeBerry, Dixon, Duer, Ferguson, Fisher, Fowkes, Givens, Gunnels, Haley, Halteman, Harwell, Hassell, Haun, Head, Herron, Hillis, Huskey, Johnson, Jones R (Shelby), Jones U (Shelby), Joyce, Kent, Kernell, Kisber, Knight, Lewis, Liles, Love, McDaniel, McKee, Meyer, Mires, Moore, Napier, Odom, Owenby, Peroulas, Draper, Phelan, Phillips, Pinion, Pruitt, Purcell, Ramsey, Rhinehart, Ridgeway, Rigsby, Rinks, Robinson, Severance, Shirley, Stamps, Stockburger, Stulce, Thompson, Tindell,

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Turner (Hamilton), Venable, Walley, West, Westmoreland, Whitson, Williams (Shelby), Williams (Union), Williams (Williamson), Winningham, Wix, Wood, Mr. Speaker Naifeh -- 91.

Representatives voting no were: Hargrove, Ritchie, Windle -- 30

Representatives present and not voting were: Miller -- 1.

A motion to reconsider was tabled.

House Bill No. 0541 -- Taxes, Privilege -- Reduces notice of intent to cancel surety bond from 60 days to 45 days under petroleum products tax law. Amends TCA, Title 67, Ch. 3, Pts. 1, 4, 5, 8.

Rep. Hillis moved that House Bill No. 541 be passed on third and final consideration.

Rep. Robinson moved adoption of Transportation Committee Amendment No. 1, seconded by Rep. Hillis, as follows:

Amendment No. 1

Amend House Bill No. 541 by deleting Section 1 and Section 2 in their entirety and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 67-3-103, is amended by adding after subsection (c) the following new subsection:

(d) The commissioner of revenue may refuse to issue any license, authorization or permit provided for by this section in the event that:

(1) The application is made by a person whose license, authorization or permit has at any time theretofore been cancelled for cause by the commissioner.

(2) Information on the application has been falsified, is fraudulent, incomplete, or has in any material way misrepresented the true facts.

(3) The applicant, his agent or an officer or employee of his business has, in any state, federal or foreign jurisdiction, been convicted of a felony related to any tax matter, or aiding or abetting such a felony.

(4) The applicant, his agent or an officer or employee of his business has, within the last five (5) years had a gasoline or motor vehicle fuel tax license or permit revoked for cause by any jurisdiction.

(5) The application is filed by a person as a subterfuge for the real person in interest when, had the real person in interest applied for the license, authorization or permit, the commissioner would have refused to issue same due to any cause set forth in this subsection.

SECTION 2. Tennessee Code Annotated, Section 67-3-402, section (a), subdivision (2), subitem (B) is amended by deleting the first three (3) sentences in their entirety and substituting instead the following:

In lieu of the provisions set out in subdivision (a)(2)(A), gasoline may be delivered to a governmental body through a customer-controlled pump. For this purpose a "customer-controlled pump" is a pump used for dispensing gasoline directly to a customer who can access the pump by way of a personal key, an identification number, or a customer card which is assigned to the customer by a licensed seller or distributor. A bonded dealer or distributor may locate such pump(s) at a location other than his primary storage location. A customer-controlled pump shall not be located on any retail filling station island. Such pump(s) must be connected to a storage tank whose inventory is owned by the holder of a Class A or Class B gasoline permit. Any holder of a valid Class A or Class B gasoline permit found violating any statute or any rule promulgated by the commissioner relating to a customer-controlled pump shall lose his right to make sales from a customer-controlled pump for a period of not less than two (2) years and shall be subject to all other penalties set forth in the law.

SECTION 3. Tennessee Code Annotated, Section 67-3-402, subsection (a), subdivision (2) is amended by adding after subitem (B) the following language as a new subitem:

(C) Motor vehicle fuel use taxes which have been paid on distillate sold or delivered to a governmental unit through a customer-controlled pump as provided by Tennessee Code Annotated, Section 67-3-811 shall be allowed as a credit against motor vehicle fuel use taxes on the Seller's Fuel Tax Report filed with the Department of Revenue.

SECTION 4. Tennessee Code Annotated, Section 67-3-802, subdivision (18) is amended by deleting the last three sentences in their entirety.

SECTION 5. Tennessee Code Annotated, Section 67-3-802, subdivision (19) is amended by deleting the subdivision in its entirety and by substituting instead the following:

(19) "Seller" means any person who sells or delivers over fifty percent (50%) of his motor vehicle fuel, measured in volume and defined by law, to ultimate consumers who are tax exempt under the statute or to retail outlets.

(20) "Importer-user" means any person who imports motor vehicle fuel into Tennessee for the purpose of consumption in a motor vehicle owned, leased, or otherwise controlled by him.

(21) A "customer-controlled pump" is a pump used for dispensing motor vehicle fuel directly to a customer who can access the pump by way of a personal key, an identification number, or a customer card which is assigned to the customer by a licensed seller or distributor.

SECTION 6. Tennessee Code Annotated, Section 67-3-804, subsection (a) is amended by inserting the words "seller or importer-user" between the words "uncancelled" and "license" in the first sentence.

SECTION 7. Tennessee Code Annotated, Section 67-3-805, subdivisions (2) and (3) are amended by deleting the subdivisions in their entirety and by substituting instead the following:

(2) Information on the application has been falsified, is fraudulent, incomplete, or has in any material way misrepresented the true facts.

(3) The applicant, his agent or an officer or employee of his business has, in any state, federal or foreign jurisdiction, been convicted of a felony related to any tax matter, or aiding or abetting such a felony.

(4) The applicant, his agent or an officer or employee of his business has, within the last five (5) years had a gasoline or motor vehicle fuel tax license or permit revoked for cause by any jurisdiction.

(5) The application is filed by a person as a subterfuge for the real person in interest when, had the real person in interest applied for the license, authorization or permit, the commissioner would have refused to issue same due to any cause set forth in this section.

SECTION 8. Tennessee Code Annotated, Section 67-3-811, is amended by adding after subsection (a) the following new subsection and redesignating the subsequent subsections accordingly:

(b) A holder of a valid seller license may locate a customer-controlled pump at a location other than his primary storage provided;

(1) Such pump is connected to a separate storage tank used exclusively to provide motor vehicle fuel for a customer-controlled pump(s) and the inventory in such storage tank is carried as part of the inventory shown on his Seller's Fuel Tax Report in the manner prescribed by the Commissioner of Revenue; or

(2) Such pump is connected to a storage tank that is also used to provide motor vehicle fuel for a computer type pump, if the tank and fuel are owned by the seller. All fuel moving into such tank is taxable under the definition of "Sale", but motor vehicle fuel use taxes paid on distillate sold or delivered through the customer-controlled pump for nontaxable purposes shall be allowed as a credit against motor vehicle fuel use taxes on the Seller's Fuel Tax Report filed with the Department of Revenue.

Any holder of a valid seller's license found violating any statute or any rule promulgated by the commissioner related to a customer-controlled pump shall lose his right to make sales from a customer-controlled pump for a period of not less than two (2) years and shall be subject to all other penalties set forth in the law.

SECTION 9. This act shall be effective July 1, 1993 and shall apply to any application for a license, authorization or permit received by the Department of Revenue on or after that date, the public welfare requiring it.

On motion, Amendment No. 1 was adopted.

Rep. Hillis moved that House Bill No. 541, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes.	96
Noes.	0

Representatives voting aye were: Allen, Anderson, Armstrong, Arriola, Bell, Bittle, Boyer, Bragg, Brooks, Brown, Buck, Byrd, Callicott, Chiles, Chumney, Clark, Coffey, Cole (Carter), Cole (Dyer), Collier, Crain, Davidson, Davis, DeBerry, Dixon, Duer, Ferguson, Fisher, Fowlkes, Garrett, Givens, Gunnels, Haley, Halteman, Harwell, Hargrove, Hassell, Haun, Head, Herron, Hillis, Huskey, Johnson, Jones R (Shelby), Jones U (Shelby), Joyce, Kent, Kernell,

THURSDAY, APRIL 15, 1993 -- THIRTY-FOURTH LEGISLATIVE DAY

Kisber, Knight, Lewis, Liles, Love, McAfee, McDaniel, McKee, Meyer, Miller, Mires, Moore, Napier, Odom, Owenby, Peroulas Draper, Phelan, Phillips, Pinion, Pruitt, Purcell, Ramsey, Rhinehart, Rigsby, Rinks, Ritchie, Robinson, Severance, Shirley, Stamps, Stockburger, Stulce, Thompson, Tindell, Turner (Hamilton), Turner (Shelby), Venable, Walley, West, Westmoreland, Whitson, Williams (Shelby), Williams (Union), Williams (Williamson), Windle, Winningham, Wix, Wood, Mr. Speaker Naifeh -- 96

A motion to reconsider was tabled.

House Bill No. 1226 -- Insurance, Motor Vehicles -- Prohibits cancellation of automobile liability insurance coverage because driver was involved in collision not driver's fault. Amends TCA, Title 56, Ch. 7, Pt. 13.

Rep. DeBerry moved that House Bill No. 1226 be passed on third and final consideration.

Rep. Rhinehart moved adoption of Commerce Committee Amendment No. 1 as follows:

Amendment No. 1

Amend House Bill No. 1226 by inserting in the amendatory language of Section 1 between the words "cancelled" and "because" the word "solely".

On motion, Amendment No. 1 was adopted.

Rep. DeBerry moved that House Bill No. 1226, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes.	98
Noes.	0

Representatives voting aye were: Allen, Anderson, Armstrong, Arriola, Bell, Bittle, Boyer, Bragg, Brooks, Brown, Buck, Byrd, Callicott, Chiles, Chumney, Clark, Coffey, Cole (Carter), Cole (Dyer), Collier, Crain, Cross, Davidson, Davis, DeBerry, Dixon, Duer, Ferguson, Fisher, Fowlkes, Garrett, Givens, Gunnels, Haley, Halteman Harwell, Hargrove, Hassell, Haun, Head, Herron, Hillis, Huskey, Johnson, Jones R (Shelby), Jones U (Shelby), Joyce, Kent, Kernell, Kisber, Knight, Lewis, Liles, Love, McAfee, McDaniel, McKee, Meyer, Miller, Mires, Moore, Napier, Odom, Owenby, Peroulas Draper, Phelan, Phillips, Pinion, Pruitt, Purcell, Ramsey, Rhinehart, Ridgeway, Rigsby, Rinks, Ritchie, Robinson, Severance, Shirley, Stamps, Stockburger, Stulce, Thompson, Tindell, Turner (Hamilton), Turner (Shelby), Venable, Walley, West, Westmoreland, Whitson, Williams (Shelby), Williams (Union), Williams (Williamson), Windle, Winningham, Wix, Wood, Mr. Speaker Naifeh -- 98.

THURSDAY, APRIL 15, 1993 -- THIRTY-FOURTH LEGISLATIVE DAY

A motion to reconsider was tabled.

***Senate Bill No. 0068 -- Water Pollution and Water Resources --** Authorizes municipalities of more than 100,000 to regulate storm water management.

Further consideration of Senate Bill No. 68, previously considered on today's Calendar.

Rep. Odom moved that Senate Bill No. 68 be reset to the Calendar for Wednesday, April 21, 1993, which motion prevailed.

House Bill No. 0398 -- County Officers -- Increases fees charged by county register; removes exemption from filing fees on documents filed by local development authority for mental health facilities. Amends TCA 4-31-707, 8-21-1001, 48-11-303, 48-51-303, 61-2-206, 68-102-125.

On motion, House Bill No. 398 was made to conform with Senate Bill No. 327; the Senate Bill was substituted for the House Bill.

Rep. Cross moved that Senate Bill No. 327 be passed on third and final consideration.

Rep. Cross moved that Senate Bill No. 327 be reset one week to the Calendar for Thursday, April 22, 1993, which motion prevailed.

House Bill No. 0415 -- County Officers -- Revises procedure for county officials to hire new deputies and assistants. Amends TCA, Title 8, Ch. 20.

Rep. Fowlkes moved that House Bill No. 415 be passed on third and final consideration.

Rep. Love moved adoption of State and Local Government Committee Amendment No. 1, seconded by Rep. Fowlkes, as follows:

Amendment No. 1

Amend House Bill No. 415 by deleting the language following the enacting clause and substituting instead the following:

Section 1. Tennessee Code Annotated, Section 8-20-101, is amended by designating the present language as subsection (a) and by deleting the word "shall" and substituting the word "may" wherever it appears therein.

Section 2. Tennessee Code Annotated, Section 8-20-101, is amended by adding the following as new subsections:

(b) In the event a petition is filed by a court

clerk, the court shall, upon request of any party, transfer the case to a court other than a court the clerk serves. No order increasing expenditures shall be effective during any fiscal year unless the petition is filed within thirty (30) days after the date of final adoption of the budget for the fiscal year, except this shall not apply to any order entered into by agreement of the parties. Provided, however, a new officeholder shall have thirty (30) days from taking office to file a petition and any order entered with respect to such petition may be effective during the fiscal year.

(c) In the event the county official agrees with the number of deputies and assistants and the compensation and expenses related thereto, as set forth in the budget adopted by the county legislative body, the county executive and the county official involved may prepare a letter of agreement, using a form prepared by the comptroller of the treasury setting forth the fact that they have reached an understanding in this regard. This letter of agreement shall be filed in court; however, no court costs, litigation taxes or attorneys fees shall be assessed. The clerks of the circuit, criminal and special courts shall file their letter of agreement or other petitions with the judge or any one of the judges in their respective courts. The sheriffs shall file their letter of agreement or other petitions with the circuit court, provided that in counties where criminal courts are established, the sheriff shall file with the criminal court. The clerk and masters, county trustees, county clerks and clerks of the probate courts and registers of deeds shall file their letter of agreement or other petitions with the chancellor or one of the chancellors if there is more than one.

Section 3. This act shall take effect upon becoming a law, the public welfare requiring it.

On motion, Amendment No. 1 was adopted.

Rep. Fowlkes moved that House Bill No. 415, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes.	94
Noes.	0
Present and not voting.	2

Representatives voting aye were: Allen, Anderson, Armstrong, Arriola, Bell, Bittle, Boyer, Bragg, Brooks, Brown, Buck, Byrd, Callicott, Chiles, Chumney, Clark, Coffey, Cole (Carter), Collier,

THURSDAY, APRIL 15, 1993 -- THIRTY-FOURTH LEGISLATIVE DAY

Crain, Cross, Davidson, Davis, DeBerry, Dixon, Duer, Ferguson, Fisher, Fowlkes, Garrett, Givens, Gunnels, Haley, Halteman Harwell, Hargrove, Hassell, Haun, Head, Herron, Hillis, Huskey, Johnson, Jones R (Shelby), Jones U (Shelby), Kent, Kernell, Kisber, Knight, Lewis, Liles, Love, McAfee, McDaniel, McKee, Meyer, Miller, Mires, Moore, Napier, Odom, Owenby, Peroulas Draper, Phelan, Phillips, Pinion, Pruitt, Purcell, Ramsey, Rhinehart, Ridgeway, Rigsby, Rinks, Ritchie, Robinson, Severance, Stockburger, Stulce, Thompson, Tindell, Turner (Hamilton), Turner (Shelby), Venable, Walley, West, Westmoreland, Whitson, Williams (Shelby), Williams (Union), Williams (Williamson), Windle, Winningham, Wix, Wood, Mr. Speaker Naifeh -- 94.

Representatives present and not voting were: Joyce, Stamps -- 2.

A motion to reconsider was tabled.

House Bill No. 1245 -- County Government -- Revises law concerning records, bonds and property taxes. Amends TCA, Titles 5, 8; Title 10, Ch. 7; Title 67.

Rep. Williams (Shelby) moved that House Bill No. 1245 be reset one week to the Calendar for Thursday, April 22, 1993, which motion prevailed.

House Bill No. 1252 -- Divorce and Annulment -- Extends privilege to communications between mediator and clients. Amends TCA, Title 36, Ch. 4.

On motion, House Bill No. 1252 was made to conform with Senate Bill No. 549; the Senate Bill was substituted for the House Bill.

Rep. Williams (Shelby) moved that Senate Bill No. 549 be passed on third and final consideration.

Rep. Buck moved adoption of Judiciary Committee Amendment No. 1 as follows:

Amendment No. 1

Amend Senate Bill No. 549 by deleting the amendatory language of Section 1 and by substituting instead the following:

(a) When the parties to a divorce action choose to mediate the dispute, the mediator shall not divulge information disclosed to the mediator by the parties or by others in the course of mediation. All records, reports, and other documents developed for the mediation are confidential and privileged.

(b) Communications made during a mediation may be disclosed only:

(1) When all parties to the mediation agree, in writing, to waive the confidentiality of the written information:

(2) In a subsequent action between the mediator and a party to the mediation for damages arising out of the mediation;

(3) When statements, memoranda, materials and other tangible evidence, are otherwise subject to discovery and were not prepared specifically for use in and actually used in the mediation;

(4) When the parties to the mediation are engaged in litigation with a third party and the court determines that fairness to the third party requires that the fact or substance of an agreement resulting from mediation be disclosed; or

(5) When the disclosure reveals abuse or neglect of a child by one (1) of the parties.

(c) The mediator shall not be compelled to testify in any proceeding, unless all parties to the mediation and the mediator agree in writing.

On motion, Amendment No. 1 was adopted.

Rep. Williams (Shelby) moved that Senate Bill No. 549, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes.	97
Noes.	0

Representatives voting aye were: Allen, Anderson, Armstrong, Arriola, Bell, Bittle, Boyer, Brooks, Brown, Buck, Byrd, Callicott, Chiles, Chumney, Clark, Coffey, Cole (Carter), Cole (Dyer), Collier, Crain, Cross, Davidson, Davis, DeBerry, Dixon, Duer, Ferguson, Fisher, Fowlkes, Garrett, Givens, Gunnels, Haley, Halteman Harwell, Hargrove, Hassell, Haun, Head, Herron, Hillis, Huskey, Johnson, Jones R (Shelby), Jones U (Shelby), Joyce, Kent, Kernell, Kisber, Knight, Lewis, Liles, Love, McAfee, McDaniel, McKee, Meyer, Miller, Mires, Moore, Napier, Odom, Owenby, Peroulas, Draper, Phelan, Phillips, Pinion, Pruitt, Purcell, Ramsey, Rhinehart, Ridgeway, Rigsby, Rinks, Ritchie, Robinson, Severance, Shirley, Stamps, Stockburger, Stulce, Thompson, Tindell, Turner (Hamilton), Turner (Shelby), Venable, Walley, West, Westmoreland, Whitson, Williams (Shelby), Williams (Union), Williams (Williamson), Windle, Winningham, Wix, Wood, Mr. Speaker Naifeh -- 97.

A motion to reconsider was tabled.

THURSDAY, APRIL 15, 1993 -- THIRTY-FOURTH LEGISLATIVE DAY

House Bill No. 1423 -- Arrests -- Provides that misdemeanor processes that have not been served, returned or quashed within five years of date of issuance are automatically terminated and removed from records. Amends TCA 40-6-206.

Rep. Williams (Shelby) moved that House Bill No. 1423 be passed on third and final consideration.

Rep. Buck moved adoption of Judiciary Committee Amendment No. 1, seconded by Rep. Williams (Shelby), as follows:

Amendment No. 1

Amend House Bill No. 1423 by deleting the words "If such" from the beginning of the second sentence of the amendatory language of SECTION 1 and substituting instead the language "In a misdemeanor case, if such".

On motion, Amendment No. 1 was adopted.

Rep. Williams (Shelby) moved that House Bill No. 1423, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes	98
Noes	0

Representatives voting aye were: Allen, Anderson, Armstrong, Arriola, Bell, Bittle, Boyer, Bragg, Brooks, Brown, Buck, Byrd, Callicott, Chiles, Chumney, Clark, Coffey, Cole (Carter), Cole (Dyer), Collier, Crain, Cross, Davidson, Davis, DeBerry, Dixon, Duer, Ferguson, Fisher, Fowlkes, Garrett, Givens, Gunnels, Haley, Halteman Harwell, Hargrove, Hassell, Haun, Head, Herron, Hillis, Huskey, Johnson, Jones R (Shelby), Jones U (Shelby), Joyce, Kent, Kernell, Kisber, Knight, Lewis, Liles, Love, McAfee, McDaniel, McKee, Meyer, Miller, Mires, Moore, Napier, Odom, Owenby, Peroulas, Draper, Phelan, Phillips, Pinion, Pruitt, Purcell, Ramsey, Rhinehart, Ridgeway, Rigsby, Rinks, Ritchie, Robinson, Severance, Shirley, Stamps, Stockburger, Stulce, Thompson, Tindell, Turner (Hamilton), Turner (Shelby), Venable, Walley, West, Westmoreland, Whitson, Williams (Shelby), Williams (Union), Williams (Williamson), Windle, Winningham, Wix, Wood, Mr. Speaker Naifeh -- 98.

A motion to reconsider was tabled.

MESSAGE CALENDAR

HOUSE ACTION ON SENATE AMENDMENTS

*House Bill No. 0102 -- Banks and Financial Institutions -- Requires CPA statement of \$75,000 net worth for pawnbroker license. Amends TCA, Title 45, Ch. 6.

THURSDAY, APRIL 15, 1993 -- THIRTY-FOURTH LEGISLATIVE DAY

Senate Amendment No. 1

Amend House Bill No. 102 by deleting the amendatory language of Section 1 and substituting instead the following:

(5) The statement required in subdivision (b)(3) shall be accompanied with an unaudited statement from a certified public accountant and shall contain the following statement:

According to the information provided to me, the net assets, as defined in Tennessee Code Annotated, Section 45-6-203, or proposed capital to be used by the applicant, _____ (name), in the pawnbroker business are valued at not less than seventy-five thousand dollars (\$75,000).

Rep. Rhinehart moved that the House concur in Senate Amendment(s) No(s). 1 to House Bill No. 102, which motion prevailed by the following vote:

Ayes.	90
Noes.	8

Representatives voting aye were: Allen, Anderson, Armstrong, Arriola, Bell, Bittle, Boyer, Bragg, Brooks, Brown, Buck, Byrd, Chiles, Chumney, Clark, Coffey, Cole (Carter), Cole (Dyer), Collier, Crain, Cross, Davidson, Davis, DeBerry, Dixon, Duer, Fisher, Fowlkes, Garrett, Givens, Gunnels, Haley, Halteman, Harwell, Hargrove, Hassell, Head, Hillis, Huskey, Johnson, Jones R (Shelby), Jones U (Shelby), Joyce, Kent, Kernell, Kisber, Knight, Liles, Love, McAfee, McDaniel, McKee, Meyer, Miller, Mires, Moore, Napier, Odom, Owenby, Peroulas, Draper, Phelan, Phillips, Pinion, Pruitt, Purcell, Ramsey, Rhinehart, Ridgeway, Rigby, Rinks, Ritchie, Robinson, Severance, Shirley, Stockburger, Stufce, Thompson, Tindell, Turner (Hamilton), Turner (Shelby), Venable, Walley, West, Westmoreland, Whitson, Williams (Shelby), Williams (Union), Winningham, Wix, Wood, Mr. Speaker Naifeh -- 90.

Representatives voting no were: Callicott, Ferguson, Haun, Herron, Lewis, Stamps, Williams (Williamson), Windle -- 8.

A motion to reconsider was tabled.

MESSAGE FROM THE SENATE
April 15, 1993

MR. SPEAKER: I am directed to return to the House, House Bill(s) No(s). 1094; substituted for Senate Bill(s) on same subject(s), amended, and passed by the Senate.

CLYDE W. McCULLOUGH, JR., Chief Clerk.

THURSDAY, APRIL 15, 1993 -- THIRTY-FOURTH LEGISLATIVE DAY

UNFINISHED BUSINESS

NOTICE TO ACT ON SENATE MESSAGES

Pursuant to Rule No. 59, the sponsor(s) gave notice of intent to consider the following measure(s) from the Senate on Monday, April 19, 1993:

House Bill No. 116: Rep. Bragg.

House Bill No. 408: Rep. Gunnels.

House Bill No. 1202: Rep. Kisber.

House Bill No. 1094: Rep. Moore.

House Bill No. 642: Rep. Purcell.

House Bill No. 869: Rep. Moore.

RULES SUSPENDED

Rep. Buck moved to suspend the rules for the immediate introduction of House Joint Resolution No. 212, which motion prevailed.

House Joint Resolution No. 0212 -- Civil Procedure -- Creates joint study committee to study comparative fault and the collateral tort issues raised by the Supreme Court opinion in McIntyre vs. Ballentine. by *Buck.

Rep. Buck moved to suspend Rule No. 80(1), relative to the time for placing bills on notice in Committee, so that House Joint Resolution No. 212 could be heard by the Judiciary Committee on Wednesday, April 21, 1993, which motion prevailed.

RULES SUSPENDED

Rep. Peroulas Draper moved that the rules be suspended for the immediate consideration of Senate Joint Resolution No. 161 out of order, which motion prevailed.

Senate Joint Resolution No. 0161 -- Memorials, Death -- J. P. "Pat" Roddy, Jr.

On motion, the rules were suspended for the immediate concurrence in the resolution.

On motion of Rep. Peroulas Draper, the resolution was concurred in.

A motion to reconsider was tabled.

THURSDAY, APRIL 15, 1993 -- THIRTY-FOURTH LEGISLATIVE DAY

RULES SUSPENDED

Rep. Purcell moved that the rules be suspended for the purpose of introducing House Joint Resolution No. 213 out of order, which motion prevailed.

House Joint Resolution No. 0213 -- General Assembly, Joint Conventions -- "Days of Remembrance," April 22, 1993. by *Purcell, *Bittle, *Ridgeway, *Kisber, *Chumney, *Herron, *Pinion.

On motion, the rules were suspended for the immediate consideration of the resolution.

On motion of Rep. Purcell, the resolution was adopted.

A motion to reconsider was tabled.

SPONSORS ADDED

Under Rule No. 43, the following members were permitted to add their names as sponsors as indicated below, the prime sponsor of each having agreed to such addition:

House Bill No. 354: Rep(s). Armstrong, Arriola, Cross, Davidson, Ferguson, Fisher, Givens, Hargrove, Hillis, Lewis, McDaniel, Mires, Moore, Napier, Ridgeway, Tindell, Walley, West, Williams (Union) and Windle as prime sponsor(s).

House Bill No. 608: Rep(s). Chumney as prime sponsor(s).

House Bill No. 897: Rep(s). Arriola and Ferguson as prime sponsor(s).

House Bill No. 1085: Rep(s). Anderson, Bittle, Coffey, Peroulas Draper, Duer, McDaniel, Meyer, Owenby, Stockburger, Stamps, Haley, Ramsey, Liles and Williams (Union) as prime sponsor(s).

House Bill No. 1226: Rep(s). Shirley as prime sponsor(s).

REPORT OF CHIEF ENGROSSING CLERK April 15, 1993

The following bill(s) was/were transmitted to the Governor for his action: House Bill(s) No(s). 202, 618, 649, 668, 935, 970 and 1016; also, House Joint Resolution(s) No(s). 18 and 102.

BETTY KAY FRANCIS, Chief Engrossing Clerk.

ENROLLED BILLS April 15, 1993

The following bills have been compared, enrolled, and are ready

THURSDAY, APRIL 15, 1993 -- THIRTY-FOURTH LEGISLATIVE DAY

for the signature(s) of the Speaker(s): House Bill(s) No(s). 262, 303, 648, 859, 1083, 1599, 1608, 1630 and 1632; House Joint Resolution(s) No(s). 67, 163, 164, 165, 166, 169, 201, 205 and 206; also, House Resolution(s) No(s). 26, 27 and 36.

BETTY KAY FRANCIS, Chief Engrossing Clerk.

SIGNED

April 15, 1993

The Speaker announced that he had signed the following: House Bill(s) No(s). 262, 303, 648, 859, 1083, 1599, 1608, 1630 and 1632; House Joint Resolution(s) No(s). 67, 163, 164, 165, 166, 169, 201, 205 and 206; also, House Resolution(s) No(s). 26, 27 and 36.

BETTY KAY FRANCIS, Chief Engrossing Clerk.

MESSAGE FROM THE SENATE

April 15, 1993

MR. SPEAKER: I am directed to return to the House, House Joint Resolution(s) No(s). 171, 172, 174, 175, 176, 177, 178, 179, 180, 181, 182, 186 and 190; concurred in by the Senate.

CLYDE W. McCULLOUGH, JR., Chief Clerk.

MESSAGE FROM THE SENATE

April 15, 1993

MR. SPEAKER: I am directed to return to the House, House Bill(s) No(s). 718; substituted for Senate Bill(s) on same subject(s), amended, and passed by the Senate.

CLYDE W. McCULLOUGH, JR., Chief Clerk.

ENGROSSED BILLS

April 15, 1993

The following bills have been examined, engrossed, and are ready for transmission to the Senate: House Bill(s) No(s). 354, 415, 453, 541, 1218, 1226, 1362 and 1423; also, House Joint Resolution(s) No(s). 202, 203, 204, 207, 209 and 213.

BETTY KAY FRANCIS, Chief Engrossing Clerk.

MESSAGE FROM THE SENATE

April 15, 1993

MR. SPEAKER: I am directed to return to the House, House Bill(s) No(s). 262, 303, 648, 859, 1083, 1599, 1608, 1630 and 1632;

THURSDAY, APRIL 15, 1993 -- THIRTY-FOURTH LEGISLATIVE DAY

also, House Joint Resolution(s) No(s). 67, 163, 164, 165, 166, 169, 201, 205 and 206; signed by the Speaker.

CLYDE W. McCULLOUGH, JR., Chief Clerk

MESSAGE FROM THE SENATE

April 15, 1993

MR. SPEAKER: I am directed to transmit to the House, Senate Bill(s) No(s). 630 and 1302; for the signature of the Speaker.

CLYDE W. McCULLOUGH, JR., Chief Clerk

REPORT OF CHIEF ENGROSSING CLERK

April 15, 1993

The following bill(s) was/were transmitted to the Governor for his action: House Bill(s) No(s). 262, 303, 648, 859, 1083, 1599, 1608, 1630 and 1632; also, House Joint Resolution(s) No(s). 67, 163, 164, 165, 166, 169, 201, 205 and 206.

BETTY KAY FRANCIS, Chief Engrossing Clerk

MESSAGE FROM THE SENATE

April 15, 1993

MR. SPEAKER: I am directed to transmit to the House, Senate Bill(s) No(s). 369 and 929; passed by the Senate.

CLYDE W. McCULLOUGH, JR., Chief Clerk

*Senate Bill No. 0369 -- Taxes, Sales -- Exempts railroad repairs, including parts and labor, from sales tax. Amends TCA, Title 67, Ch. 6. by *Atchley, *Gilbert, *McNally, *Kyle, Hamilton.

*Senate Bill No. 0929 -- Workers' Compensation -- Requires commissioner of commerce and insurance to implement an equitable apportionment among insurers of certain applicants for workers' compensation insurance; requires insurers to participate in plan. Amends TCA 56-5-314. by *Patten.

MESSAGE FROM THE SENATE

April 15, 1993

MR. SPEAKER: I am directed to transmit to the House, Senate Joint Resolution(s) No(s). 127; adopted for concurrence.

CLYDE W. McCULLOUGH, JR., Chief Clerk

Senate Joint Resolution No. 0127 -- Memorials, Public Service -- Senator John Hicks. by *Haynes, *Harper, *O'Brien, Henry, Rochelle,

THURSDAY, APRIL 15, 1993 -- THIRTY-FOURTH LEGISLATIVE DAY

Albright, Atchley, Burks, Cohen, Cooper, Crowe, Crutchfield, Davis, Elsea, Ford, Gilbert, Hamilton, Holcomb, Jordan, Koella, Kyle, Leatherwood, McKnight, Patten, Person, Rice, Springer, Wallace, Womack, Wright, Wilder, McNally, Greer.

MESSAGE FROM THE GOVERNOR

April 15, 1993

MR. SPEAKER: I am directed by the Governor to return herewith: House Bill(s) No(s). 34, 641, 646, 679, 686, 1101, 1105, 1145, 1365 and 1535; also, House Joint Resolution(s) No(s). 93, 149, 151, 153, 154, 155, 157, 158, 159, 160 and 161; with his approval.

DAVID H. WELLES, Counsel to the Governor.

SIGNED

April 15, 1993

The Speaker announced that he had signed the following: Senate Bill(s) No(s). 507, 521, 679, 881, 921, 956, 1180 and 1415; also, Senate Joint Resolution(s) No(s). 135, 138, 139, 140 and 141.

ENROLLED BILLS

April 15, 1993

The following bills have been compared, enrolled, and are ready for the signature(s) of the Speaker(s): House Bill(s) No(s). 102; House Joint Resolution(s) No(s). 171, 172, 174, 175, 176, 177, 178, 179, 180, 181, 182, 186 and 190; also, House Resolution(s) No(s). 37 and 38.

BETTY KAY FRANCIS, Chief Engrossing Clerk.

SIGNED

April 15, 1993

The Speaker announced that he had signed the following: House Bill(s) No(s). 102; House Joint Resolution(s) No(s). 171, 172, 174, 175, 176, 177, 178, 179, 180, 181, 182, 186 and 190; also, House Resolution(s) No(s). 37 and 38.

BETTY KAY FRANCIS, Chief Engrossing Clerk.

ROLL CALL

The roll call was taken with the following results:

Present 95

Representatives present were: Allen, Anderson, Armstrong,

THURSDAY, APRIL 15, 1993 -- THIRTY-FOURTH LEGISLATIVE DAY

Arriola, Bell, Bittle, Boyer, Bragg, Brooks, Brown, Buck, Byrd, Callicott, Chile, Chumney, Clark, Coffey, Coker (Carter), Cole (Dyer), Collier, Crain, Cross, Davidson, Davis, DeBerry, Dixon, Duer, Ferguson, Fisher, Fowlkes, Garrett, Givens, Gunter, Hargett, Halteman, Harwell, Hargrove, Hassell, Haun, Head, Herron, Hillis, Huskey, Johnson, Jones R (Shelby), Jones U (Shelby), Joyce, Kent, Kernell, Kisber, Knight, Lewis, Liles, Love, McAfee, McDaniel, McKee, Meyer, Miller, Mires, Moore, Napier, Odom, Owenby, Peroulas, Draper, Phelan, Phillips, Pinion, Pruitt, Purcell, Rhinehart, Ridgeway, Rigsby, Rinks, Ritchie, Robinson, Severance, Shirley, Stamps, Stockburger, Thompson, Tindell, Turner (Hamilton), Turner (Shelby), Venable, Walley, West, Westmoreland, Whitson, Williams (Union), Williams (Williamson), Windle, Winningham, Wix, Wood, Mc Speaker Naifeh -- 95.

On motion of Rep. Purcell, the House recessed until 5:00 p.m., Monday, April 19, 1993.

RECEIVED

APR 15 1993

HOUSE OF REPRESENTATIVES

STATE OF NORTH CAROLINA

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